

Emergency Unemployment Compensation Act of 1991  
Questions & Answers for Clarification of P.L. 102-164, as amended

**Corrections to UIPL 9-92.** The following two questions appeared in UIPL 9-92 with answers that contained errors that are corrected below. Disregard the questions and answers in UIPL 992 and utilize the question and answers provided below:

**Exhaustees for Purposes of EUC - Question number 2, Page 2 of Attachment to UIPL 9-92**

2. Q. If an individual exhausted regular benefits or EB prior to March 1, 1991, but the BYE ends on March 1 or later, does the claimant qualify for EUC under the reachback provisions?

A. Yes. Reachback States do not have to determine when the exhaustion occurred if the claimant had an existing BYE on or after March 1, 1991.

**Qualifying Monetary "Parent" UI Claim - Question number 1, Page 6 of Attachment to UIPL 9-92.**

1. Q. The claimant's regular UI "parent claim" for EUC may have been established based on State law utilization of base period earnings of less than 20 weeks work or less than 1 1/2 times the higher quarter wages or less than 40 times the WBA. Will claimant be eligible for EUC?

A. Maybe. Section 101(d)(2) of P.L. 102-164 requires that EUC is payable under the terms and conditions applicable to claims for EB. Therefore, in order to determine an individual's EUC eligibility, which is based on a regular claim as described, the State must consider the individual's entire base period employment and/or earnings including any employment and wages covered under any other State or Federal law in determining if the 20-weeks of work requirements of Section 202(a)(5), EUCA and 20 CFR 615.4 (b) were satisfied. If consideration of all of the claimant's base period employment/wages satisfies the requirements, the claimant is eligible for EUC. If not, the claimant is ineligible for EUC.

**UCX**

1. Q. Should a State agency issue blanket monetary redeterminations to all UCX claimants having an unexpired benefit year after November 15, 1991?

A. GAL 3-92 requires that, in applying the amendment of section 301(a) of P.L. 102-164 to UCX claimants having an unexpired benefit year after November 15, 1991, the SESAs shall take appropriate action to identify and inform these claimants of the changes in Federal law that may affect their unexpired UCX claims. Such action should include a search of the SESA's files and announcements in newspapers of general circulation and other appropriate media. For administrative ease, the SESA may wish to issue blanket UCX monetary redeterminations to all claimants having an unexpired benefit year after November 15, 1991; however, staff years earned as the result of these monetary redeterminations of UCX claims as the result of section 301(a) of P.L. 102-164 will be limited to those monetary redeterminations which are based on the claimant filing a claim for a week of unemployment beginning on or after November 15,

1991. (Refer to Sections 4.a. and 6.b. of GAL 3-92~)

### **Seasonal Provisions/Between Terms Denial**

1. Q. Are the provisions of 20 CFR 615.5(b)(2)(i) and (ii) relating to seasonal employment applicable to employees of educational institutions who may claim EUC within between terms?

A. No. The above cited EB regulations which address the definition of "exhaustee" are not applicable to employees of educational institutions. Additionally, the between and within terms denials of benefits found in 26 U.S.C. d3304(a)(6)(A) require that State law provisions provide that compensation shall not be payable based on services performed for educational institutions or certain other entities during such periods. Consequently, if the regular UI claim was based on wages from such institutions/entities, the EUC claim based on such "parent" claim are subject to the same denial.

### **Special Claims Forms for EUC Program**

1. Q. Can a State provide a place on its weekly or biweekly claim form for the claimant to indicate that he/she does not want to claim a particular week or weeks, but does want to e mailed a **claim form** for the next weekly or biweekly period?

A. Yes. Such a procedure would not constitute a denial of a claimant's right to file a claim. However, SESAs' must not use such a certification request in a manner which provides a claimant with an opportunity to retroactively change the status of a week claimed certification in order to avoid a disqualification.

### **Work Search Requirements/Eligibility Review**

1. Q. Can an individual whose job prospects are "not good" be disqualified from receiving EUC under regular State law provisions for refusing an offer of otherwise suitable work if the offer was not in writing or was not listed with the State employment service?

A. No. Section 202(a)(2), EUCA, precludes any application of State law for regular benefits contrary to the provisions of Sections 202(a)(3)(C) and (D), EUCA, which specify the conditions under which a claimant may be disqualified from receiving EB (EUC) for failing to apply for or accept suitable work.

### **Overpayment Recovery**

1. Q. Under State procedures, overpayment amounts are added back into the claimant's UI balance. When the State utilizes the required EUC 50 percent offset limitation for a single deduction, is it possible that the claimant may be paid more than the EUC maximum benefit amount?

A. No. An individual cannot be paid more than his/her maximum entitlement. The authority to establish and recover EUC overpayments derives its legal basis solely from section 105 of P.L. 102-164. Therefore, State law provisions and State agency procedures are not the basis for establishing and recovering overpayments under the EUC program.

A State agency procedure that adds overpayment amounts back into the claimant's UI balance prior to repayment of the overpayment is inconsistent with provisions of section 105 of P.L. 102-164 and is, therefore, not permissible in the EUC program. Section 105(b) of P.L. 102-164 requires the claimant to repay an EUC overpayment to the State agency unless the recovery of the overpayment can be waived under the provisions of

section 105(b)(1) and (2) and the procedures contained in Section III.M.2. of Attachment A to GAL 4-92. P.L. 102-164 and GAL 4-92 are clear in requiring repayment of EUC program overpayments unless waived, or unless recovered by offset from EUC, Federal UI and/or State UI (if permitted) during the 3-year period after the date the claimant received the EUC payment to which he/she was not entitled. If all or part of the EUC overpayment recovery is by offset, the 50 percent offset limitation (section 105(c)(1) of P.L. 102-164) is applicable.

As an example, an individual was paid 13 weeks of EUC at \$100 per week (total \$1300), then subsequently was assessed an overpayment for a week and \$100 was restored. If the individual claimed another week, only \$50 could be offset with a \$50 payment to the individual. This net result is that the individual would be paid \$1350 which exceeds the \$1300 maximum amount payable. Therefore, in accordance with the Federal provision discussed above, States may not restore an amount unless the amount is actually repaid.

### **Eligibility**

1. Q. Prior to the amendments to the Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) being enacted on December 4, 1991, EB exhaustees who had a benefit year ending before March 1, 1991, and exhausted EB on or after March 1, 1991, were entitled to receive EUC for weeks beginning on and after November 17, 1991, if they were otherwise eligible. In light of the amendments to P.L. 102164, should the claims for weeks of EUC paid to these EB exhaustees be redetermined and overpayments established? If not, is EUC payable to these EB exhaustees for weeks of unemployment beginning on and after November 17, 1991 and ending before December 4, 1991?

A. The EUC claims for EB exhaustees who were entitled to receive benefits prior to the amendments to P.L. 102-164 should not be redetermined and overpayments should not be established. These EUC payments were legally warranted for the weeks of unemployment claimed under the Federal law in effect at the time even though determinations and payments may have occurred after December 4, 1991.

Therefore, for EB exhaustees described above who are otherwise eligible under the Act prior to its amendment, the Department will interpose no objection if EUC is paid to such claimants for weeks of unemployment beginning on and after November 17, 1991, and ending before December 4, 1991.

However, no payment of EUC may be made for any week of unemployment ending after December 4, 1991, to any individual who does not qualify under the amendment to the "reachback" provision, i.e., by having had a benefit year which ended after February 28, 1991. Hence, any State which pays EUC under the original "reachback" provision, for the weeks which began on November 17 and November 24, will have to redetermine the claims of those claimants no longer eligible under the amended "reachback" provision, effective for all weeks ending after December 4, 1991.

The amendments to P.L. 102-164 were intended to make the "reachback" provisions apply equally to all States and to all claimants. The Department's position herein put forth achieves the most equitable results for the put forth achieves the most equitable results for the States as well as claimants, while also giving timely effect to the amendments.

### **Reporting**

The same instructions provided in the following applies to counting initial claims for the permanent Extended Benefits (EB) program.

If, in implementing the EUC program, a State has reported initial claims in a manner inconsistent with these instructions, corrections should be submitted. (See ET Handbook 361, UI, Workload Validation Handbook,

appendix A, definition of transitional claim, and ET Handbook 401, Unemployment Insurance Reports Handbook, section I.2.E.3.). The following questions and answers clarify previously issued instructions in GAL 4-92 and to Regional Administrators.

1. Q. When the State screens an individual's application to determine if eligibility exist under any other State Federal law, including scanning the State's wage file, and determines that the claimant clearly has no other entitlement and proceeds with the EUC claim, should a regular UI initial claim and a EUC initial claim be reported for workload purposes?

A. No. At the time of the initial claim, States must obtain enough documentation (work history and/or a combination of wages and work history) to determine if an initial EUC claim or some other type (regular UI, UCFE, or UCX, Joint, CWC or Interstate) should be filed. The decision to proceed with a regular claim or an EUC claim governs which will be reported. This includes cases where a regular claim ineligible monetary determination is issued solely to satisfy a legal requirement.

2. Q. In the process of establishing that a claimant has no entitlement to benefits under any other State or Federal law an actual intrastate or interstate initial claim (including CWC) must be processed because the work history indicates potential entitlement. The State reported the initial claim and it subsequently resulted in an ineligible monetary determination or a "double dip" denial. When the EUC claim is taken for the same claimant, should an initial EUC claim be reported also?

A. Yes. In cases where an actual intrastate or interstate initial claim (including CWC) must be processed because a decision cannot be made upon screening the information available, each claim processed is reportable.

3. Q. When an EUC claimant is in a continuous claims series and the benefit year ends and with each subsequent quarter change, a determination must be made as to whether or not the claimant can establish a claim for regular benefits.

Should this determination be reported as a regular initial claim?

A. No. This determination is reportable as a transitional claim on the regular ET 5159.